

**Board Meeting Minutes
June 25, 2004**

**Board for Professional Engineers and Land Surveyors
2535 Capitol Oaks Drive
Fourth Floor Conference Room
Sacramento, California 95833
(916) 263-2222**

Friday, June 25, 2004

Board Members Present: Gregg Brandow (President), James Foley (Vice President), Arthur Duffy, David Fruchtman, William Roschen, Millicent Safran, William Schock, Elizabeth Warren, Michael Welch, Dale Wilson, and Edward Yu.

Board Members Absent: Robert Jones and Cindy Tuttle.

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), Debbie Thompson (Budget Analyst), and Cindy Fernandez (Executive Analyst), Joanne Arnold (Enforcement & Legislative Programs Manager), and Janeece Sargis (Examination Analyst)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Brandow at 9:20 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

Mr. Markuson, representing CELSOC, thanked President Brandow, Ms. Christenson, Ms. Eissler, and Ms. Arnold for their cooperativeness in addressing concerns that CELSOC and other professional societies had with some of the language in SB 1547.

3. Closed Session

The Board went into closed session at 9:25 a.m.

4. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board adopted the results of the take-home examinations for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson reported that the Board approved the following cutscores for the April 2004 examinations:

- EIT 70 out of 100
- LSIT 70 out of 100
- Chemical 70 out of 100
- Electrical 70 out of 100
- Mechanical 70 out of 100
- National Land Surveyor 70 out of 100
- Civil 8-hour 70 out of 100
- Seismic Principles 125 out of 263 possible points
- Engineering Surveying 157 out of 275 possible points

Ms. Christenson reported that the Board adopted the Stipulations regarding Roy Adrian Anderson, Jamshid James Kaviani, Behnam Yousefi, and Hyun S. (James) Son, and the Board adopted the Proposed Decision regarding Zuhayr Nizam-Aldine.

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492.

5. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

a. Approval of the Amended Minutes of the April 22 & 23, 2004, Board Meeting

MOTION: Mr. Schock/Mr. Duffy moved to approve the minutes as amended of the April 22 & 23, 2004, Board meeting.
(See attached)

VOTE: 11-0, motion carried.

b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Duffy/Mr. Schock moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 11-0, motion carried.

6. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Vice President Foley/Ms. Safran moved to approve the Delinquent Reinstatements as follows:

Electrical

1. MARK T. LIEBERMAN

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

Mechanical

1. CLARK D. FREEMAN

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

2. DOUGLAS D. LENZ

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination.

3. SAMPATH RANGANATH

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

VOTE: 11-0, motion carried.

7. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Ms. Safran/Vice President Foley moved to approve the Amended Handout Comity List.

VOTE: 11-0, motion carried.

8. Election of President and Vice President for 2004/05 (Possible Action)

The Nominating Committee of Ms. Safran and Mr. Wilson nominated Vice President Foley to be the next Board President and Ms. Tuttle to be the next Board Vice President.

MOTION: Mr. Fruchtman/Mr. Schock moved to accept the nomination.

VOTE: 11-0, motion carried.

9. Release of Special Civil Examination Development Services Request for Proposal (Possible Action)

Ms. Sargis reported that the Board is currently contracting with Professional Management and Evaluation Services (PMES) which completes tasks associated with the psychometric development, grading and standard setting for the California Special Civil Engineering Examination (CSCEE). The current contract with PMES expires June 30, 2005.

Ms. Sargis also reported that Board staff is currently in the process of writing a Request for Proposal (RFP) for the subsequent CSCEE vendor contract. The RFP is scheduled to be released September 1, 2004 and should be in place by January 1, 2005. In addition to development, grading and standard setting services, the contract will include a recoding meeting for the assignment of new test plan codes to each item in the item bank. The new codes will be assigned as a result of the revised test plan which is scheduled to be completed December 2004.

Mr. Duffy requested an estimation of the cost.

MOTION: Mr. Wilson/Mr. Welch moved to approve the September 1, 2004 release of an RFP for psychometric development, grading and standard setting tasks and for a recoding meeting for the California Special Civil Engineering Examination.

VOTE: 11-0, motion carried.

10. Approval of Washington State Specific Structural Engineering Examination for Comity (Possible Action)

President Brandow reported that this item will be postponed to the next Board meeting.

11. 2004/05 Strategic Plan (Possible Action)

Ms. Christenson reported on the Strategic Plan in the Agenda.

a. Action Plans

GOAL 1: *Protect Consumers by: providing information and education; effectively discouraging violations of law before they happen; and promptly investigating and adjudicating law violations.*

Objective 1: Reduce backlog of enforcement cases caused by staff shortages to meet performance measures.

Objective 2: Evaluate cycle times and implement procedures to ensure cycle times and performance measures are met.

Objective 3: Finalize proposed Technical inspector Program and implement plan.

Objective 4: Develop and implement a proactive plan to expand enforcement outreach.

Objective 5: Enhance the Board's website by ensuring information is relevant and current; expand functionality to licensees and consumers through the website.

GOAL 2: *Implement legislative changes.*

Objective 1: Develop, adopt, and implement regulations to establish LSIT qualifications.

Objective 2a: Implement legislative changes resulting from Sunset Review which may include fingerprint/criminal history program.

Objective 2b: Implement legislative changes resulting from Sunset Review which may include reporting of legal actions.

Objective 2c: Implement legislative changes resulting from Sunset Review which may include results of the Title Act Review (Change of period in time to petition board for reinstatement of revoked license).

GOAL 3: *Evaluate the Professional Engineers' Act, the Professional Surveyors' Act, and the Board Rules and request regulatory and/or legislative changes where appropriate.*

- Objective 1:** Develop, adopt, and implement regulations to allow five-years credit for an ABET Masters Degree.
- Objective 2:** Amend definition of responsible charge.
- Objective 3:** Amend delinquent reinstatement requirements.
- Objective 4:** Adopt, amend, or delete regulations as a result of legislative changes resulting from Sunset Review.
- Objective 5:** Review the value of continuing education.

GOAL 4: *Increase public and professional awareness of the Board's*

- *Mission*
- *Vision*
- *Activities to protect the health, welfare, and safety of the public*
- *Services to both consumers and licensees*

Objective 1: Establish a public awareness campaign for consumers/public, professional, and applicant outreach.

GOAL 5: *Ensure adequate fiscal and human resources are available to maintain an effective operational structure so that the Board can meet its Mission and Vision.*

Objective 1: Evaluate business processes and staffing functions to ensure effective use of human resources and equipment.

Objective 2: Develop a feasibility study for acquiring an integrated database that will maintain education, experience, examination, and enforcement data.

12. Final Recommendation of Joint Legislative Sunset Review Committee (Possible Action)

Ms. Christenson reported that this item was an information item only.

13. NCEES Annual Meeting (Possible Action)

a. Approval to Recommend Concept of National SE III Examination

President Brandow reported that Washington, Illinois, and California met last year regarding this item.

MOTION: Mr. Schock/Mr. Wilson moved to send a letter to NCEES supporting Concept of National SE III Examination.

VOTE: 11-0, motion carried.

Ms. Christenson reported that President Brandow has been asked to run for Treasurer of NCEES.

20. Executive Officer's Report

1. Administration Report

a. Executive summary report
No additional report was given.

b. State budget
No report given.

2. Personnel

a. Hiring freeze
No report given.

b. Vacancies
Ms. Christenson reported that we will be recruiting for the Assistant Executive Officer position.

3. Enforcement/Examination/Licensing

a. College Outreach
No report given.

b. Report on Enforcement Activities
No report given.

c. Report on Examination Activities
No report given.

4. Publications/Website

a. Website Activity Statistics
Ms. Christenson advised the Board that the Structural Application is now available on line.

5. Sunset Review & Report

No report given.

6. Other

a. DCA update
No report given.

14. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on the fund condition dated June 4, 2004. Ms. Thompson pointed out that the projected revenue has decreased for renewal fees from \$3,590,000 to \$3,533,000 and application fee revenue increased from \$2,607,000 to \$3,013,000 for this Fiscal Year. Interest earned for the reserve fund is now 2% instead of 5% which reduced the projected interest earned from \$85,000 to \$33,207. The Board's fund reserve will drop below a one-month reserve level in three years. This drop is caused by the exam applicant population drop causing the projected application revenue to now be approximately \$800,000 short of the amount projected when the Board increased applicant fees.

President Brandow questioned why the exam population has dropped. Ms. Thompson indicated the drop may have resulted from either the change in the economy or the applicant fee increase that became effective July 1, 2003 or both. Ms. Christenson pointed out that engineers sometimes move into other lucrative professions such as was the case with Silicon Valley.

Ms. Thompson pointed out that if the fund condition includes an expense growth of 2% per year (or approximately \$150,000 for the Board). At this rate, expenses will exceed revenue in FY 2006/07. The Board will need to cut budgeted expenses in future fiscal years in order to keep up with mandatory cost increases that occur or increase fees. One such increase would include the requirement that the Board fingerprint all licensees and applicants included in Senate Bill 1547.

Mr. Shock questioned how the future fiscal year's exam applicant revenue was projected. Ms. Thompson indicated that the projections from FY 2004-05 to FY 2007-08 use the FY 2003-04 exam applicant revenue projections (\$3,013,000) rounded downward to \$3,000,000. In prior FYs, an increase was included for future FY projections because the exam population had experienced an increase trend over several years.

b. FY 2003/04 & 2004/05 Budgets (Possible Action)

Based on the April 30, 2004 expense reports, Ms. Thompson reported that there is a projected \$66,069 in excess budgeted funds available after projected expenditures for this FY. The increase in projected excess funds available after expenses results from savings in subject matter expert expenses and a reduction in printing and postage because the Board will be unable to send out a postcard notice regarding the bulletin's availability on the website until next FY.

c. FY 2005-06 Budget Change Proposals

The Board prepared and submitted to DCA a BCP requesting one additional Enforcement Analyst to process the ongoing enforcement cases and another two-year limited-term analyst to reduce the existing backlog.

d. Publication Review

Ms. Thompson reviewed the Board's publications schedule. Ms. Thompson also distributed copies of the Board's last bulletin for Board member review and possible changes.

Vice President Foley suggested the enforcement case summaries identified in the Board's bulletin could be identified in another section in the Board's website. Those interested in reading the summary could click onto the names identified under enforcement actions to tie into the case summary. It was the consensus of Board members that the Board should send out a postcard notification to licensees that the bulletin will only be on the website.

e. Pass Through of Application Fees to NCEES

Ms. Thompson reviewed details of the Board's fiscal impact relating to the proposal that exam applicants pay their national exam booklet and grading fees directly to NCEES. The Board's exam cost components excluding NCEES fees were calculated to arrive at the Board costs broken into three separate cost components. These include Exam Development, Application Processing and Test Administration. The total of each of these cost components was divided by the population connected to the cost component (i.e., state-specific examinees for Exam Development; total applications received for application processing; and total number of examinees set for exam for test administration costs) for a cost per applicant. The cost per applicant for all three Board cost components adds up to provide the Board's total cost per applicant. The total cost for the state-specific exams was reduced by a renewal fee augmentation consistent with the existing augmentation to exam costs. This proposal would pass on to exam applicants a \$25 processing fee required by NCEES to process their payments directly which would in effect be a fee increase to the applicants. The state-specific and in-training exams would increase also while the NCEES only exams would remain at \$275.

Mr. Duffy expressed the opinion that this would be a significant increase to applicants for the state-specific exams. Vice President Foley indicated the civil should be less as there are more applicants taking this exam. President Brandow expressed the concern that applicants not pay an exam application fee the second time they apply for an exam. Ms. Christenson explained there still is processing required for an application even for re-examinees even though the time is reduced to process. Ms. Thompson explained that the Board's revenue reduction for this proposal cannot exceed its NCEES expense reduction that will be \$1,030,000. If

this occurs, the Board would be required to reduce fees somewhere to accommodate the change. This is because the Board cannot change the fee structure and create additional revenue to the Board without a sound justification and approval from the various control agencies.

Ms. Christenson explained that the Board's timeframes for exam preparation would be reduced because the cut off date for scheduling exam applicants would need to be a couple of week's time back from the exam date. Ms. Thompson also indicated this would require additional staff to coordinate with NCEES the change. President Brandow requested Ms. Thompson bring to the Board more information regarding how other states brake out their fees such as New York, Texas, Illinois, and Ohio as well as a comparison chart that details fees charged by other states in comparison to the Board.

The Board directed Ms. Thompson to prepare separate fee structure scenarios, including one that identifies the actual costs per each exam the Board offers and others that more evenly distribute fees amongst state-specific and national exams, and information that shows California's fees in comparison to the fees required by other comparable states for presentation and discussion at the September Board meeting.

15. Enforcement

a. Update regarding Rulemaking Proposals, including but not limited to Board Rules 404.1 & 404.2 (Definitions of Responsible Charge), Board Rule 418 (Criteria for Rehabilitation), and Board Rules 472.1, 473, & 473.1 (Citation Program) (Possible Action)

Ms. Eissler advised the Board that she hoped to have the amendments to Board Rules 404.1 and 404.2 regarding responsible charge noticed for public comment in July so that the public hearing could be held in conjunction with the September Board meeting. She explained that draft language for Board Rule 418 regarding the criteria for rehabilitation would be presented for the Board's consideration and discussion at the August meeting; it would be based on the Board's discussion at the April meeting.

Ms. Eissler advised that she had submitted a request to the Office of Administrative Law (OAL) to amend Board Rules 472.1 and 473.1 to conform the maximum amount of the fine to the new statutory maximum through a process called "Changes Without Regulatory Effect," which means that no public comment period is required. She explained that this had been recommended to the Board at its April meeting by DCA Legal Counsel Anita Scuri. Ms. Eissler stated that she had not yet received a response from OAL; if the request is rejected, then the amendments will be included in the notice with the other amendments to the citation regulations that the Board approved at its April meeting.

Mr. Duke reported that the Director of the Department of Consumer Affairs was told by representatives of the Governor's Office that this Administration will not be supporting any fee increases unless they can be fully justified as a "last resort" option; this includes increasing fine amounts. Mr. Duke explained that it would be likely that the Director would reject any rulemaking proposals that increased the maximum amount of fines. He also pointed out that the Board could overrule a rejection by the Director by a unanimous vote.

16. Legislative

a. Discussion of Proposed Legislation for 2004, including but not limited to AB 320, AB 1265, AB 1826, AB 1976, SB 1547, and SB 1735 (Possible Action)

Ms. Arnold gave an update on these items and provided a hand out on the proposed amendments to SB 1547.

MOTION: Vice President Foley/Mr. Yu moved to support SB 1914.

VOTE: 11-0, Motion carried.

b. Regulation Status Report

No additional report given.

**17. Technical Advisory Committee Reports
(No Committee Meetings were held.)**

a. Board Assignments to TACs (Possible Action)

No Board assignments.

b. Appointment of TAC Members (Possible Action)

No appointments.

18. Liaison Reports (Possible Action)

a. ABET

No report given.

b. NCEES

No report given.

c. Technical and Professional Societies

No report given.

19. President's Report
No report given.

21. Approval of Board Travel (Possible Action)
No Board Travel.

22. Other Items Not Requiring Board Action
a. **Next Board meeting: August 6, 2004, Sacramento, California**

23. Adjourn
The Board adjourned at 2:45 p.m.

PUBLIC PRESENT

Carl C deBaca, CLSA

Jim Feld, SFPE

Steve Hao, Caltrans

Richard Markuson, CELSOC

Tom Stout, CSPE